

IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROUBEN MADIKIANS,)
v.)
Plaintiff,)
AMERICAN AIRLINES ASSOCIATION) No. 1:04-cv-12451-JLT
OF PROFESSIONAL FLIGHT) Judge Joseph L. Tauro
ATTENDANTS ("APFA"), et al.,)
Defendants.)

)

MOTION TO DISMISS

Defendant Julia Carrigan respectfully moves the Court, pursuant to Rule 12(b) (6) of the Federal Rules of Civil Procedure, to dismiss the complaint. In support of her motion, defendant states as follows.

1. Neither of the two counts of the complaint that arguably present a cause of action arising under federal law - Count One (retaliation) and Count Four (duty of fair representation) - states a claim upon which relief can be granted. Both must therefore be dismissed pursuant to Rule 12(b) (6).

2. Having dismissed all federal claims at an early stage of the litigation, the Court should decline to exercise

supplemental jurisdiction over the two state law claims presented in Count Two (defamation) and Count Three (intentional infliction of emotional distress).

3. The grounds for this motion are more fully set forth in the accompanying Memorandum of Defendant Julia Carrigan in Support of Motion to Dismiss.

4. While only defendant Carrigan appears to have been served to date, the grounds for dismissal set forth herein apply equally to all defendants.

For these reasons, defendant's Motion to Dismiss should be granted, and the complaint should be dismissed in its entirety.

Respectfully submitted,

s/David B. Rome
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Counsel for Defendant

RULE 7.1 CERTIFICATE

Pursuant to Local Rule 7.1(a)(2), I hereby certify that on February 2, 2005, I conferred with regard to the subject of the foregoing motion with Daniel J. Ciccarello, counsel for plaintiff, who declined to give his consent to the motion.

s/John M. West

John M. West

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion to Dismiss was served by first-class mail, postage prepaid, this 4th day of February, 2005, on counsel for plaintiff as follows:

David D. Nielson
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Daniel J. Ciccarello
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s/David B. Rome

David B. Rome